UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/SR.1067
13 September 1991

ENGLISH
Original: FRENCH

HUMAN RIGHTS COMMITTEE

Forty-second session

SUMMARY RECORD OF THE 1067th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 10 July 1991, at 10 a.m.

Chairman: Mr. POCAR

CONTENTS

Consideration of reports submitted by States parties under article 40 of the Covenant (continued)

Initial report of the Sudan (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.91-16597/3681B

The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Initial report of the Sudan (CCPR/C/45/Add.3) (continued)

1. The CHAIRMAN invited the Sudanese delegation to reply to the comments and inquiries by members of the Committee following the introduction of the initial report of the Sudan.

2. Mr. ABDEL SAMIE OMER (Sudan) said that he would endeavour to reply to the main questions posed by members of the Committee, although he would probably be unable to address all the issues that had been raised. He first wished to stress that, where human rights were concerned, the Sudanese Government unhesitatingly acknowledged the existence of shortcomings, was endeavouring to make an honest assessment of the situation, and was generally exerting itself to secure respect for the obligations imposed by international legal instruments. But at the same time, the increasing invocation of human rights matters as a means of influencing inter-State relations in recent years had amply demonstrated the risks of abuse in that domain; certain Powers, as well as certain international organizations, were increasingly adopting biased attitudes, to the detriment of a number of third world countries, which were being arbitrarily enjoined to respect standards that ran counter to their own fundamental principles. The right to free choice being at the very root of all other rights, it was inadmissible that a country opting for its own religion and for laws that formed an integral and inalienable part of that religion should see itself accused of lawfully inflicting inhuman or degrading treatment, and called upon to modify the religious principles on which the entire body of its law was based. That obviously amounted to a violation of the right to free choice. In point of fact, as long as the common law imposed on the Sudan for 57 years before and 40 years after its accession to independence had been in force, many of the country's current critics had approved of that state of affairs. When, however, the Sudanese people had decided that they wished to revert to their earlier traditions, customs and beliefs, the Government had been accused of violating human rights. In those circumstances, it might not be inopportune to take a fresh look at the concept of human rights as enshrined in international instruments.

3. The Sudanese delegation had noted that the comments by the members of the Committee reflected different points of view. Some members had expressed regret that the criminal legislation which had been promulgated on 20 February 1991 and had entered into force on 20 March 1991 was not mentioned in the report; but the latter had been submitted on 3 January 1991. Other speakers had regretted that the report did not cover the review period in its entirety, and that it had not been drawn up in strict accordance with the Committee's guidelines. The Sudanese delegation acknowledged that the provisions of the Covenant were binding on States parties and not merely on the Governments of the day; and would ensure that those mistakes did not occur again. It also acknowledged that the Committee's guidelines had not been strictly observed, but would call the attention of members to the report

prepared in response to a letter from Mr. Wako, Special Rapporteur of the Commission on Human Rights on summary or arbitrary executions: the report, dated 1 January 1991, the English version of which had been distributed by the delegation, contained a large amount of information that answered comments and questions by members of the Committee: it should have been distributed together with the initial report of the Sudan. It was, in fact, clear from a number of the comments that information was lacking. Thus, the Committee seemed to be under the impression that the new Penal Code identified 92 offences, including 32 offences of a political nature, whereas in reality there were 132 offences, 8 of them described as political; there were 9 offences against the security of the State. The members of the Committee had also been under the impression that, according to the new Penal Code, the testimony of four witnesses was necessary to establish the offence of rape, and had deemed that to be a retrograde and unacceptable provision. In reality, the new Penal Code provided for nothing of the sort: rape had probably been confused with adultery, an offence for which four prosecution witnesses were indeed required.

4. Former political detainees were under no obligation to report daily to the police after release. With regard to the number of civilians condemned to death, only three persons had been executed for illegal dealing in foreign currency and drugs. The condemnations had in no way been politically motivated. It should be borne in mind that for a country such as the Sudan, trafficking and smuggling were a veritable curse, whose victims were the poorest sectors of the population, because they led to a black market in foodstuffs which was socially and economically disastrous. That explained the severity of the penalties imposed: the aim was to protect the most vulnerable part of the population.

5. Concerning the dismissal of civil servants, it was true that, as indicated in paragraph 7 (e) of the report (CCPR/C/45/Add.3), the termination of employment could take place "with or without post-service benefits" under article 6 of Constitutional Decree No. 2. The Revolutionary Command Council for National Salvation had discretionary authority in that respect. In reality, however, dismissed employees were almost invariably accorded benefits.

6. In accordance with the new Penal Code, the three southern States, the majority of whose population was not of the Muslim faith, were exempted from applying Islamic law in criminal matters.

7. The state of emergency would probably not be lifted in the Sudan until the parties had achieved a peaceful settlement of the conflict in the south of the country. That was another instance of double standards being applied: two countries, one of which had only very recently lifted a 24-year state of emergency and the other had perpetuated a similar situation since 1952, had been the object of no remonstrances whatsoever, and yet - unlike the Sudan - neither had been in a state of civil war. It was true that the Sudan had infringed the provisions of the Covenant in neglecting to observe the notification procedure, but that omission would certainly be put right.

8. The Sudanese delegation could state that no university rector had been dismissed, and that in any case the Government would have been unable to take such a decision, since competence in the matter lay solely with the university itself. Nevertheless, the cancellation of the contracts of certain academics called for some explanation. Under the Sudanese system, university staff could go abroad on a five-year secondment to work in the Gulf States, notably in Saudi Arabia, or in interntional organizations. Finding that situation financially advantageous, some of them subsequently refused to return to the Sudan and, if they did not resign, their posts could not be reallocated. That was why, if they refused to rejoin their posts after being formally notified of their obligation to return, their contracts were duly and legally cancelled but not, as some sought to imply, for political reasons.

9. Claims that conditions of detention in Sudanese prisons were harsh constituted another matter where truth must be restored and a distinction drawn between the allegations of certain non-governmental organizations and on-the-spot observations by high-level official delegations invited by the Sudan - which was one of the rare countries to do so - to come and assess the situation for themselves. Thus, a mission comprising a former Belgian Prime Minister and Member of the European Parliament, a Labour Member of Parliament from the United Kingdom and a jurist from Barbados had travelled to the Sudan in December 1990 to visit prisons there and interview detainees and former detainees. They had been able to establish that the conditions of detention were in no way inhuman and that torture was not carried out in prisons. They had also been able to visit the best-known penitentiary in the country; that establishment had been recently emptied and demolished and the 2,000 inmates, elderly common criminals half-way through their sentences, had been released. The Committee would do well to acquaint itself with the report of the mission, which had been in the Sudan from 12 to 20 December 1990, to take note of its conclusions and not to rely on reports by non-governmental organizations which denounced the conditions of detention in the Sudan but which had never gone there. He reiterated that there were no political detainees in his country.

10. It had been asked how it was possible, legally, for laws promulgated prior to 1985 to have remained in effect after the suspension, in 1989, of the transitional constitution of 1985. Under the Sudanese system, a law could be abrogated only with the adoption of another legal text; but the latter could stipulate that the regulatory provisions of the abrogated law remained effective until a new law was promulgated or until the regulations in question were amended. That was why the constitutional decree suspending the transitional constitution logically stipulated that all the laws promulgated under that or earlier instruments remained in effect, the aim being to avoid any legal or constitutional vacuum and the paralysis of the system as a whole. The Covenant, because of it had been ratified, was automatically an integral part of Sudanese domestic legislation.

11. Many questions had been asked concerning the special courts. In that connection, he referred the Committee to the report drawn up in reply to the letter from Mr. Wako he had mentioned earlier, a report which was very explicit on that point. The courts normally consisted of three persons either belonging to the armed forces or possessing other qualities of integrity and competence, but that the authorities had recently taken steps to reduce the number of such courts and had finally decided to abolish them. Appeals

against decisions by the special courts could be lodged with the Chief Justice. The competence of the special courts had been extended; after 1990 they had been entitled to judge cases under the Hashish and Opium Act, 1924; the Pharmacy and Poisons Act, 1962; the Commodities Control Act, 1978; and Dealing in Currency Act, 1981. The Revolutionary Command Council for National Salvation was not competent to handle appeals, and could only endorse death sentences or grant reprieves. Extrajudicial execution was quite unknown in the Sudan. Allegations in that connection had originated in the execution of a number of army officers who had attempted to overthrow the Government, as was set out in detail on pages 1-3 of the aforementioned reply to the letter from Mr. Wako. A total of 299 political detainees had been released on 29 April 1991; the 2,000 common criminals who had also been released, as mentioned earlier, should not be counted as political detainees.

12. A number of questions had been asked concerning the crime of apostasy. The relevant text was to be found in article 126 of the new Penal Code, which read as follows:

> "(1) There shall be deemed to commit the offence of apostasy every Muslim who propagates for the renunciation of the creed of Islam or publicly declares its renouncement thereof by his statements or conduct;
>
> (2) Whoever commits apostasy shall be given a chance to repent for a period to be determined by the court. Where he insists upon apostasy and he is not a recent convert to Islam, he shall be punished with death;
>
> (3) The penalty provided for apostasy shall be remitted whenever the apostate recants apostasy before execution."

13. The penalties imposed under Islamic law should be considered in close relation to the precepts of the Islamic religion. In that regard, it should be recalled that Muslims regarded Islam not merely as a religion but as a complete set of rules for living applicable not merely in private life but also in the public life of the nation in order to ensure respect for public order. Consequently, apostasy constituted an offence punishable by "ta'zir", which was a dissuasive disciplinary sanction. For Muslims, the practice of religion had the same importance in private and in public life, and all problems must be resolved in accordance with Islamic religious law. At the present time, a vast reform movement was under way in a large number of Muslim countries to purify their legislation of all elements which conflicted with the principles of Islamic law, the justification being that peoples should place themselves under the authority of what they identified themselves with, namely their traditions, customs and standards, and the laws which emanated from their religion. On the other hand, attempts to impose alien legal systems upon peoples wholesale, and to force them to abjure their heritage, their culture and their traditions, would be doomed to failure. Certain circles did not appreciate that in insisting on imposing their own vision of respect for human rights, they were depriving whole populations of the right to choose their own laws in accordance with their religion. Certain peoples had, none the less, decided to emancipate themselves from externally-imposed principles, and to reinstate the observance of their own law. In that context, persons guilty of apostasy who constituted a general threat to society might be likened to those found guilty of treason under a large number of legal systems that did not depend on Islamic law.

14. Similarly, some members of the Committee had strongly challenged the justification for penalties imposed in accordance with Islamic law. It should be stressed, however, that, for Muslims, such punishments could not be considered cruel or degrading: that would amount to applying human criteria, whereas the punishments were imposed by God and emanated from His will as expressed in the Koran. The only exception related to the offence of adultery, the penalty for which was not specified in the Koran; jurists had not yet reached any conclusion on the question, which explained why there was little, if any, jurisprudence in the matter. Punishments imposed under Islamic law were neither arbitrary nor retrograde, despite the claims of certain non-Muslim jurists. A number of contemporary non-Muslim criminologists in Western countries were in fact currently studying the matter, and it would be interesting to learn of their findings.

15. With regard to the state of emergency, members of the Committee had inquired about the prospects for a peaceful settlement of the conflict in the Sudan, and about federalism and participatory democracy. Where the first matter was concerned, the peace process had undoubtedly moved forward. The achievement of a peaceful settlement had been a priority objective of the Government when it had assumed power in June 1989; two months later it had met for negotiations with the Sudan People's Liberation Army-Sudan People's Liberation Movement (SPLA-SPLM), at Addis Ababa. During the meeting, it had been agreed that contact would be maintained, that the cease-fire would be prolonged and that hostile propaganda campaigns would be brought to an end, and - what was most important - that there would be further meetings. That had been the case in December 1989 at Nairobi, where the participants had agreed that the programme proposed by the Government constituted a sound basis for solving the Sudan's problems and that a constitutional conference would be convened to draft a constitution.

16. Those meetings had been followed by two United States peace proposals, which had led to enormous progress. Thirty of the 32 points in the United States proposal had been accepted by the parties, so that only 2 were still the subject of disagreement. Firstly, the members of the rebel movement wanted multi-party democracy; the United States proposal spoke of pluralism and the Sudanese Government wanted participatory democracy. The second controversial point related to the convening of a constitutional conference to draw up a constitution, for which a preparatory meeting (agenda, place and date, security measures, participants, etc.) had been envisaged. The rebel movement, which had at first agreed to meet the Government at a preliminary meeting at Kinshasa, had subsequently allied itself with another opposition group, composed of former members of political parties in northern Sudan, the National Democratic Alliance; that decision had brought the entire peace process to a standstill, the rebel movement having demanded that the opposition in its entirety should be represented at the preparatory meeting, whilst the Government had considered that it concerned only the two belligerents, namely the Sudan People's Liberation Army (SPLA) and the Sudanese armed forces.

17. The reason why the southern rebel movement (SPLA-SPLM) had allied itself with the northern opposition group, the National Democratic Alliance, was obvious: the former knew full well that it could not advance beyond a certain latitude towards the north because of strong resistance from the population,

which was chiefly Muslim and Arab-speaking; for its part, the National Democratic Alliance was aware that it could not take control of Khartoum without backing from the armed rebels in the south. The arrangement was thus dictated by opportunism, rather than by concern to put an end to the real and dramatic conflict raging in south Sudan.

18. However, with the overthrow of the Mengistu regime in Ethiopia, the southern rebel movement had lost its principal support, and the current situation on the international, regional and domestic levels alike appeared very favourable to a peaceful settlement. Under the auspices of the Organization of African Unity, the Sudanese Government had solicited the services of the President of Nigeria as mediator in the quest for a peaceful settlement, and the rebel movement had agreed to participate in a meeting at which some progress had been registered. His delegation hoped that all who wished to see peace established in that region of Africa would help to promote a peaceful settlement.

19. The peace process was closely linked to the federal question, which was the second point of discord. The present Government, unlike its predecessors, which had had no programme for a peaceful settlement, had invited a large number of Sudanese from across the political spectrum to meet to analyse the underlying causes of the conflict that was tearing the country apart. It had been concluded that the matter was not one of differences between Muslims and non-Muslims, or between Arabs and non-Arabs, but that it stemmed from the following issues: power-sharing; the sharing of natural resources; cultural diversity and pluralism; and, lastly, relations between State and religion and, in particular, the problem of Islamic law and that of national identity. Despite that conclusion, there were many who continued to argue that the Sudanese conflict had ethnic, religious and racial origins.

20. Concerning the particularly delicate issue of the relationship between the State and religion, those who had analysed the situation in the course of the meeting he had mentioned had been of the opinion that the majority, comprising Muslims, could not be deprived of the right to make its own choice, provided that the choice was not imposed on those to whom it was unacceptable. That had led them to a solution based on a federal system, where there would be a legislation of national origin and application in domains within the competence of the federal State, notably in the matter of criminal law, but where each of the federated States would be able to opt out of any legislative measures which it deemed to be of religious origin. It was against the background of that reservation that the new Penal Code had been adopted and promulgated, and the three southern States had been exempted from the application of penalties established under Islamic law.

21. Thus, given the diversity of the country - diversity of races, languages and religions - federalism was deemed to be the best means of turning to good account distinctions that could be divisive. The Sudanese all wished to live peacefully in a unified country, without sacrificing their variegated cultures, and the federal system appeared to be the best means of preserving unity together with difference.

22. His last point concerned participatory democracy. The system chosen by the Sudan was not based on the existence of political parties, experience of which had shown on a number of occasions that such an arrangement did not suit the country, nor on the single-party system, which was also unsuitable. It was a system that sprang from the grass roots, i.e. from the district or village levels, with their people's committees, moving upwards to a higher level (conferences) in a pyramidal structure. The system also provided for the representation of professional organizations alongside regular citizens' representatives, and for geographical electoral areas in accordance with the practice of the past 30 years.

23. The choice of political system was a matter of great concern to intellectuals and academics in the third world as they noted that, to the great satisfaction of the Western world, many third world countries opted for the multi-party system. To his mind, that was not a reflection of genuine choice, but rather a political decision taken under pressure from the principal donors, which posed the multi-party option as a condition, in order to obtain financial, economic or technical assistance. If the choice had been made in those conditions, and if the assistance received did not correspond to their aspirations, the political leaders rejected the multi-party way, and the result was a vicious circle of coups d'état and violence. Why should a country which had rejected the multi-party system at birth suddenly adopt it 25 years later unless it was in the hope of obtaining assistance by offering guarantees to the donors? How could it be forgotten that in some of those countries, the political parties were in fact dominated by a religious sect or by a tribe, and not political parties in the true sense of the term? It was important to know whether those who advocated the multi-party system were willing to assume full responsibility for the chaos and bloodshed that were likely to ensue when the flow of assistance began to dry up. What was legal or moral in Chicago was not necessarily so in Khartoum. The concern of the Sudanese was to ensure effective popular participation in decision-making, and the first condition for that was the quality of citizenship and not the membership card of a political party or affiliation to a tribe or religious sect. It was as a citizen that an individual should stand before the people and seek election, without the backing of any political party.

24. The CHAIRMAN said that, as was customary, he invited members of the Committee to comment on the replies by the Sudanese delegation to their questions. He pointed out that while it was permissible for a State party to refer to a report submitted to another United Nations body dealing with human rights, that did not exempt it from the obligation to report to the Committee on its application of the provisions of the Covenant.

25. Mr. SADI said he had been most impressed by the frankness of the Sudanese delegation, which had in no way attempted to embellish the situation; that was an example which should be emulated. Nevertheless, the positions of the Committee and the Sudanese delegation were at variance. He would first raise a particularly delicate issue, namely that of the priority accorded to Islamic law and to Islam in general. Islam was undoubtedly a way of life; but he would stress that it was a very forward-looking religion; rather than looking back over its shoulder, it was capable of adapting to all periods and made room for evolution and interpretation. Islam should not be associated with the static image that certain contemporary regimes might give of it. The

countries of Islam had been associated with the drafting and adoption of the Covenant and, since then, some of them had been able to reconcile the obligations which they incurred under international instruments with their religious beliefs.

26. In the second place, the Sudanese delegation had spoken of double standards being applied in the United Nations system. It should be recalled that Jordan, which had just lifted the state of emergency after 24 years, had been reprimanded on that subject by the Committee when presenting its initial report; the Sudan was thus not the only case.

27. Finally, he assured the Sudanese delegation that the comments by members of the Committee reflected a concern to assist an important African country in conforming to an instrument which it had freely ratified. If the Committee needed to hear the delegation in order better to understand the situation in the Sudan, the Sudanese delegation for its part should understand the position of the Committee, for which observance of the provisions of the Covenant was a most important matter.

28. Mr. MAVROMMATIS said that the strength of some of the arguments advanced by the Sudanese delegation had impressed him, even if he did not concur with them. He hoped that respect for freely accepted international obligations was a major concern of the Sudanese authorities.

29. As to the accusation that double standards were being applied with regard to States parties, while such a problem might have occurred in certain politicized bodies of the United Nations, that had not been the case in the Committee; moreover, the improvement of the international climate should put an end to that type of situation. With regard to States parties which had proclaimed a state of emergency, the Committee had criticized a number of such countries, in Latin America as well as in other regions, such as Jordan. Nor should it be forgotten that the majority of the members of the Committee were themselves nationals of third world countries.

30. Concerning the punishment imposed for the offence of apostasy in the Sudan, in violation of the provisions of article 18 of the Covenant, it should be borne in mind that Islamic countries had signed and ratified the Covenant knowing full well that certain of its provisions were contrary to Islamic law. The Sudanese authorities must certainly have examined the articles of the Covenant, and article 18 in particular, as they prepared to ratify it. What did they intend to do now? As regards the proclamation of the state of emergency, he wondered why the Sudan had not notified the Secretary-General, specifying the grounds for such a step. The Committee was of the opinion that, until further notice, all the provisions of the Covenant were still applicable to the Sudan. Dialogue between the Committee and the State party was not a pretext for criticisms, but permitted the expression of the opinions and feelings of members of the Committee, who came for the most part from the third world. The issue was one of helping the State party to promote human rights and fundamental freedoms. Much remained to be done in the Sudan to improve the human rights situation, and dialogue ought to facilitate that process. He hoped that the Sudanese authorities would read the Covenant once again with the aim of establishing greater conformity between the country's laws and practices and its provisions; he wished the Sudan every success as it evolved towards democracy.

31. Mr. MYULLERSON said that he, too, had appreciated the frankness and eloquence of the head of the Sudanese delegation, who had replied to many questions which members had posed with the sole aim of verifying the implementation of the Covenant. He himself had never had the impression that the Committee employed double standards in examining the situation in different countries. Each country was in turn submitted to critical review. Noting the assurance that the Covenant formed an integral part of the Sudanese legal system, which was not stated in the report, he asked whether that instrument could be invoked in courts or administrative bodies

32. Turning to more specific points, he said that, in his view, to make apostasy a capital offence constituted flagrant violation of article 18 of the Covenant; he wondered how such provisions could be included in Sudanese law. He considered that certain punishments constituted cruel or degrading treatment for the purposes of the Covenant.

33. With regard to derogations from certain articles of the Pact without notification to the Secretary-General, he referred to the provisions of Constitutional Decree No. 2 of the Sudan, certain of which were drafted in vague and very general terms; article 6, in particular, could serve as a pretext for all sorts of limitations on political activity (CCPR/C/45/Add.3, paras. 6, 7 and 8).

34. He found the Sudanese interpretation of the multi-party system to be reasonable, but wished to point out that in the absence of political opposition, Governments were tempted to exercise power in a non-democratic fashion. As had been seen in the countries of Eastern Europe, including his own, democratization was a difficult process if there was no opposition.

35. Mr. PRADO VALLEJO said that he, too, was gratified by the frankness with which the head of the Sudanese delegation had described the situation in his country. He had not attempted to sidestep problems, which was not always the case.

36. The Committee's conduct had always been undeniably correct, which had earned it respect. Consequently, its members had drawn attention to a number of contradictions between the Covenant and Sudanese legislation or practice, not because they were biased, but because the contradictions were blatant. Explanations that invoked respect for the country's specific cultural and religious characteristics were not sufficient. Each country certainly could and should defend its own culture, but there were a number of essential and fundamental principles that constituted the common denominator of the international community. The general values whose development had been witnessed by mankind over the centuries, and which were enshrined in the Covenant, were both up to date and mandatory; they represented jus cogens, and there was no law or precept whatsoever that could replace them.

37. Most countries had incorporated the Covenant into their domestic law, and some of them even went so far as to give it precedence over their domestic law, thereby recognizing its primacy. The Committee always questioned the representatives of States parties on that point, because it was convinced that the principles contained in the Covenant were mandatory and in all cases took

precedence over domestic law and custom. It was domestic law that had to be adapted to the Covenant, as was specified in article 2, which made it mandatory for States parties to take the necessary steps "... to adopt such legislative or other measures as may be necessary to give effect to the rights recognized ...". Customs could clearly not be modified overnight, but the Committee was aware of Muslim countries that had amended their legislation and practice, which proved that the process was by no means impossible. The Sudanese authorities should at the very least endeavour to implement in practice the principles embodied in the Covenant. As he often observed, there was no human rights paradise. However, if progress was to be made, there had to be a genuine desire for renovation combined with the necessary internal discipline. He was confident that when the second periodic report of the Sudan was submitted, the Committee would note a number of changes. He hoped that the Sudan, a third world country with which he had a deep sense of solidarity, would progress along the path towards democracy. The Sudanese delegation would certainly not fail to inform its Government of all the Committee's concerns.

38. Mr. NDIAYE said that he appreciated the ability and frankness of the head of the Sudanese delegation and the efforts he had made to reply to the Committee's questions. At the same time, he was concerned by the fact that the report of the Sudan (CCPR/C/45/Add.3) did not correspond to the Committee's conception of a report. The Committee was not the Commission on Human Rights; it was a body of independent experts elected in their personal capacity. Before taking office, members made a solemn declaration that they would perform their functions impartially and conscientiously. They could not in general be accused of bias.

39. The Committee's concern was with the means adopted by States parties to make their people happy. There was no specific cultural characteristic that could justify practices such as arbitrary attacks on life, slavery or torture. The members of the Committee focused on the details of texts in a constructive spirit. There was no reason either to accuse the Committee of blindly following the non-governmental organizations; it knew them well as a result of its contacts with them and was capable of forming an objective opinion. However, when reports from the non-governmental organizations and from the press coincided with information from members of the Committee from the regions concerned, the Committee could not turn a blind eye.

40. Furthermore, if a State that wished to ratify an international instrument considered that some of its provisions conflicted with its domestic legislation or custom, it was quite free to express reservations or to make a formal declaration to that effect. Some States had done so, and when the Committee considered their reports, it tended to pass over the relevant paragraph or paragraphs. Despite that option, it was not uncommon, when periodic reports were under consideration, for States, and frequently African States, that had eagerly ratified an instrument as a whole, to declare, usually on very learned grounds, that one or another of the articles could not be implemented because it ran counter to the country's values and traditions.

41. He himself was a Muslim and came from a country that was 85 per cent Muslim, and he was able to say that Islam was a particularly progressive religion that was opposed to obscurantism. It was Islam that encouraged people to seek knowledge as far away as China and asserted that there was no compulsion where religion was concerned. The practice adopted in Senegal showed that Islam was perfectly compatible with the provisions of the Covenant as a whole.

42. As far as the democratic form of Government was concerned, it was clear that nothing in the Covenant obliged States parties to adopt a pluralist form of political organization. Moreover, there were States parties that complied with the Covenant's provisions within a single-party system. However, the Covenant required that freedom and equality should be sufficiently guaranteed to allow all citizens to take part in public life. Whatever type of regime was adopted by the Sudan, the Committee would seek to determine how such participation was ensured.

43. He was of the view that the Sudanese delegation and the Committee could agree on many points if additional information were provided. After it had made a close study of the Committee's general guidelines for preparing reports, the Sudanese delegation could submit a supplementary report to the Committee at a time of its choosing.

44. Mr. AGUILAR URBINA thanked the Sudanese delegation for not having sought to conceal the real situation in the Sudan and for having acknowledged that some provisions of the Covenant had not been implemented there. The delegation had further said that the Covenant had been incorporated into Sudanese domestic law, although it had not specified whether the Covenant could be directly invoked in the courts.

45. He, too, came from a third world country and repudiated the allegation that the multi-party system was not an important issue in developing countries. Costa Rica, which had been independent for 150 years, had been the first country in Latin America to adopt a democratic system involving the participation of a number of political parties. It was currently the second most developed country in Latin America, and experience showed that the freedom enjoyed by the population was not unconnected with its economic success. That view was shared, for example, by a Pakistani economist, who had asserted, in a report from which he (Mr. Aguilar Urbina) read out a brief extract, that the fundamental objective of human development was to exploit the full potential of individuals. That implied the possibility to express different views. It was false to assert that freedom was achieved after development; quite the contrary, development had been achieved in countries where freedom prevailed. From that angle, the dialogue initiated between a State and the Committee could lead to progress, provided the Committee was seen, not as a political organ that would apply the rules to some countries and not to others, but as a body, established by the international community as a whole for the purpose of helping the States parties. The members of the Committee were at the service of States. If the Committee was widely respected, it was because of its impartiality.

46. In the view of all the specialists, the way of life advocated by Islam was progressive. It was unacceptable that, under the pretext of a particular interpretation of Islam, an instrument should not be applied, although Islamic countries, including the Sudan, had participated in its preparation, and many Islamic countries had ratified and implemented it without difficulty.

47. The question of apostasy and the relevant punishment was particularly disturbing, not only in the light of article 18 of the Covenant, but also and above all, with regard to article 6, which established the right to life.

48. In conclusion, there was reason to be satisfied that a dialogue had begun between the Committee and the Government of the Sudan, through its delegation. The Committee's prime concern was the fate of a country's population as a whole, and it would look forward to considering the next report, in which, it was to be hoped, considerable progress would be apparent.

49. Mr. ANDO thanked the Sudanese delegation for the explanations it had provided orally. There were still a number of points that remained unclear, although it would be easy to clarify them, in particular, with the help of the text of Constitutional Decree No. 4, which the delegation might make available to the Committee when the next periodic report was considered.

50. He endorsed Mr. Mavrommatis' remarks concerning the purpose of the dialogue with the Committee. The members of the Committee were elected, and were thus at the service and disposal of States. It was for States to decide what use to make of the dialogue with the Committee.

51. It was clear that in many regions of the world a powerful movement had developed in favour of a return to traditional values. In addition, it was occasionally observed that the Western countries, having attempted to dominate the world through force and, then through economic power, were seeking to impose their values on the world through human rights. However, the origin of a concept mattered little; what really counted was its universal nature. It was possible that, as the Sudanese delegation had said, principles relating to human rights should be kept under permanent scrutiny, but their universal acceptability was, and remained, fundamental.

52. The multi-party system appeared to be a bone of contention between the Government in power and the opposition. The regime adopted by a country was of secondary importance as long as it ensured that all shades of opinion could be heard. It should not be forgotten that, in the African countries, the maintenance of frontiers inherited from colonialism had entailed the presence of extremely diverse elements within the same political State; the maintenance of order, which was a prerequisite for the observance of human rights, called for a strong Government, which could well take the form of a single-party regime. Nevertheless, in those circumstances, an attempt should be made to provide an outlet for as many different shades of opinion as possible, representing all sectors of society.

53. Clearly, all individuals possessed distinct characteristics, although they also had features in common. The Covenant and all the human rights instruments first of all acknowledged the differences, although as far as their objectives were concerned, they also sought points of similarity, and in that respect they represented a common denominator. There was no doubt that a large number of values specific to Islam were reflected in the Covenant. One of the fundamental principles of the Covenant was recognition of equality of opportunity. All individuals should have the same opportunities in respect of education, information and knowledge. Democracy was a costly system, but it was also the only one that was universally acceptable. However worthy of respect traditional values might be, they should be changed when the majority of society demanded change. It was hard to see why Islam should be an exception to that rule.

54. He hoped that the Government of the Sudan would be informed of the Committee's concerns, and that the dialogue initiated with its representatives would lead to some improvement in the situation.

55. Mr. EL SHAFEI thanked the Sudanese delegation for the valuable and informative replies it had given to the questions asked. There were none the less a number of points that gave rise to problems. The Sudanese representative had said that the International Covenant on Civil and Political Rights was an integral part of national legislation and of the laws that applied in the Sudan. However, the Committee did not know whether there were any laws in the Sudan whose inspiration lay in the provisions of the Covenant. Moreover, the initial report of the Sudan (CCPR/C/45/Add.3) did not indicate whether any domestic laws were at variance with the provisions of the Covenant, and if so, which instrument took precedence. The Covenant was not a mere convention to which States acceded in order to attain an objective by a certain deadline and which thereafter would serve no useful purpose. States parties were required constantly to review their legislation in order to ensure that it complied with the provisions of the Covenant. Was the Government of the Sudan discharging that duty and did the provisions of domestic legislation comply with those of the Covenant?

56. The representative of the Sudan had said that the state of emergency had not prevented a number of acts from being implemented. However, it was clear from a close reading of Decree No. 3 that the actual situation bore no relation to the description given by the delegation. In connection, again, with the state of emergency, he wished to correct the assertions made regarding the Committee's use of double standards in considering reports submitted by States parties. The Committee was responsible for considering those reports before it by a predetermined deadline. It could not turn a blind eye to the emergency situations that prevailed in some countries. On the contrary, it was under the obligation to examine each situation on a case-by-case basis. In that connection, he quoted article 4 of the Covenant, under which States parties might take measures derogating from their obligations under the Covenant in time of public emergency threatening the life of the nation. As had often been observed, even in such a situation there were certain specific rights and freedoms which the State party was required to observe. It must, in particular, guarantee the right to life (art. 6) and respect for article 7 of the Covenant, which stipulated that no one should be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

57. As far as the multi-party system was concerned, the Human Rights Committee was not qualified to declare itself in favour of a given system. However, he drew the particular attention of the Sudanese delegation to articles 19, 21, 22 and 25 of the Covenant.

58. Lastly, the dialogue begun with the Sudanese delegation had been constructive. The Committee had been informed of the Government's projects for the south of the Sudan and of the future institution of a federal system. It was important for the Committee to receive information on the legal framework that would make it possible to guarantee the rights and freedoms set out in the Covenant. He wished the Government of the Sudan every success in its undertaking, and hoped that the second periodic report would provide fuller information on the situation in the country.

59. Mr. WENNERGREN commended the frankness of the Sudanese representative and the strong personal conviction with which he had spoken.

60. The earlier comments by members of the Committee had highlighted a vital question: how could an Islamic country implement the provisions of the Covenant, and was that even possible? To take the example of article 7 of the Covenant, under which no one should be subjected to torture or to cruel inhuman or degrading treatment or punishment, he had gained the impression that the Koran provided for certain punishments such as lapidation, the amputation of limbs, crucifixion, etc., with the result that the Sudanese authorities did not consider such punishments to be cruel, inhuman or degrading. Admittedly, the Covenant itself tolerated capital punishment, which, in the eyes of many people, was a cruel, inhuman and degrading punishment.

61. Clearly, it was necessary to define what was cruel, inhuman or degrading and what was not, and there was no denying that there was no objective basis for such an assessment, which relied on highly subjective criteria. As a lawyer, the representative of the Sudan was well aware that it was for the bodies responsible for interpreting the concepts set out in legislation to decide what was to be considered cruel, inhuman and degrading. For its part, the Human Rights Committee had established, in its general observations and in considering specific communications, that punishments such as lapidation, amputations, etc., were indeed cruel, inhuman and degrading. Where the interpretation of article 7 of the Covenant was concerned, there was thus a body of jurisprudence on which there was general agreement. The Government of the Sudan should not merely have regard to the wording of the provisions of the Covenant; it should also take the relevant international jurisprudence into account.

62. The Human Rights Committee took its decisions by consensus. In other words, all of its members had to approve any assessment that was proposed. As the Committee was composed of experts from countries with extremely diverse histories and religious and social practices, etc., its interpretations of the Covenant, which were the result of consensus, were thus authoritative. For all those reasons, the Committee found it difficult to understand how the Government of the Sudan could consider that lapidation, amputations, etc. were not cruel, inhuman and degrading. He was disturbed by the opinion expressed by the Sudanese representative that the provisions of the Covenant and, he inferred, article 7, too, should be amended in the future.

63. One member of the Committee had pointed out that a custom could not be changed overnight. But in 1989 Sudanese customs had been well and truly changed from one day to the next and punishments such as those he had mentioned had been introduced in the name of the Shariah, as if the latter had suddenly called for the implementation of such measures. He could hardly see how that was compatible with an ideology described by other members of the Committee as extremely progressive.

64. However, he welcomed the opportunity that had been given to the Committee to begin a dialogue with the representatives of the Sudan on subjects of such importance as the implementation of the provisions of the Covenant in a fundamentalist Islamic country. Lastly, he hoped the Sudanese delegation had been convinced that the provisions of the Covenant were in no way out of date, but in perfect keeping with the changes taking place in the world community. He hoped that the dialogue would continue and assured the delegation that the Committee would in the future do its utmost to help the Sudanese authorities in all spheres within its competence.

65. Mr. FODOR said that if a State party took its international commitments seriously and resolutely strove to protect the rights embodied in the Covenant, it should begin by enacting basic laws if the country had none, amending those laws whose provisions were contrary to the Covenant and supplementing its existing legislation. Above all, the State party should institute a national legal system that complied as closely as possible with the international commitments into which it had entered. However, no legal system was capable of guaranteeing faultless application of the law, or of completely excluding violations of the rights it protected. It was apparent that the facts did not necessarily match the legal system. The Committee had found that the establishment of an adequate legal system was a sine qua non for the satisfactory defence of human rights. The report submitted and the dialogue with the Sudanese delegation showed that the Sudan still had a long way to go before its legislation adequately reflected the provisions of the Covenant. It was not sufficient to have ratified the Covenant, if previous laws had not been amended, if there were no new laws that complied with the Covenant's provisions and if domestic law took precedence in the event of a conflict.

66. The recommendations of the Conference on Justice and Legal Reform, held in March 1991, which had apparently been approved by the Sudan, pointed to the course to be followed. Their implementation would lead to a considerable and much needed improvement in the human rights situation in the Sudan. The initial report of the Sudan (CCPR/C/45/Add.3) revealed major shortcomings that had been dealt with at length by the members of the Committee. The discussion with the delegation had dispelled only a few of the Committee's concerns. Most of them remained, although he hoped that they would be removed when the second periodic report was submitted. To conclude, he wished the Government every success in its efforts to restore democracy to the Sudan.

67. Mrs. HIGGINS endorsed the tribute paid by the other members of the Committee to the frankness shown by the Sudanese representative. She had nevertheless been surprised by some of his remarks, in particular those regarding the issue of "choice". It should be noted that the Sudanese authorities had chosen the country's religion and determined what human rights

should be. She pointed out that it was for peoples to decide what their rights should be, and it was they, and not the Governments, who must be satisfied by the definition adopted. Moreover, she was convinced that people throughout the world were alike: notwithstanding the world's great cultural and religious diversity, all people aspired to enjoy freedom of expression, freedom of religion and the right to live in peace, free from the fear of State pressure. Throughout the world, people wished to have the choice of a system that would offer them such freedom. As to whether the best system for that purpose was a single-party or a multi-party system, her answer was that since a single-party system did not tolerate opposition, it could hardly guarantee those freedoms, however flexible it might be.

68. She in turn assured the Sudanese delegation that the Committee did not apply a double standard in its treatment of countries whose reports it considered. She also assured the delegation that the members of the Committee were in no way biased.

69. The Sudanese representative had referred to the need to take a fresh look at international human rights instruments. It should be emphasized that, as a Muslim country that had acceded to the Covenant, the Sudan had had an opportunity to express reservations when it had ratified the Covenant, if its authorities had considered that there were genuine incompatibilities between the bases of the Sudanese regime and the Covenant's provisions. Unless it expressed reservations, at the very latest, at the time of ratification, a State party that ratified the Covenant thereby accepted all of its provisions. Accordingly, she considered that the only possible way forward was through convergence, and was inclined to believe that the Sudanese authorities and the Committee would jointly find a means of reconciling Sudan's freedom to live under a social system of its choosing and the Committee's duty to ensure respect for human rights. After giving an assurance that the Committee would steer its efforts in that direction, she again thanked the Sudanese delegation for having come to present the initial report (CCPR/C/45/Add.3) to the Committee and expressed her satisfaction with the dialogue that had taken place.

70. The CHAIRMAN said that he, too, appreciated the frankness of the Sudanese representative and the good will shown by the Sudanese delegation. He wished to underscore one point that had been raised by some members of the Committee. Parties to the Covenant were under the obligation to observe all of its provisions, unless they had entered reservations at the time of ratification or accession or had made derogations in accordance with the terms of article 4 of the Covenant. The emergency legislation enacted in the Sudan did not appear to have arisen from a situation that complied with those requirements. In the process of establishing certain principles and interpreting the provisions of the Covenant, the Human Rights Committee strove to take into account the contributions of different cultures and peoples. However, once those principles had been adopted, the Committee had to apply them equally to all States parties and could not brook double standards. Nor could it permit different interpretations of some of the Covenant's provisions, with the exception of the derogations mentioned above. One of the Committee's tasks was to attempt to bring about universal implementation of the principles contained in the Covenant. He was sure that the Sudanese delegation had taken careful note of the various remarks and observations made by the Committee.

71. Some members of the Committee had also pointed out that the report of the Sudan was extremely short; hence the need for fuller information so that the situation in the country could be examined in greater detail. In such cases it was the Committee's practice to request a supplementary report. In the present case, he suggested that it should simply await the submission of the second periodic report, and drew the delegation's attention to the fact that the report should reach the Secretariat by 17 June 1992. The Committee regarded it as most important that periodic reports should be submitted punctually, should comply with the relevant guidelines and should deal with issues which had been inadequately covered in the previous report and had been a source of concern. He concluded by thanking the Sudanese delegation.

72. Mr. ABDEL SAMIE OMER (Sudan) wished to clear up two points on which there had obviously been a misunderstanding. First, in referring to double standards, he had certainly not had the Committee in mind and had been speaking in purely general terms. Secondly, when he had mentioned third world leaders who attempted to jump on the multi-party bandwagon because they expected, or had been promised, financial, technical or economic assistance, he had not been referring to countries such as Costa Rica, which was an advanced country. His remark concerned the poor countries of the third world, and particularly of Africa.

73. Where jurisprudence was concerned, a member of the Committee had asserted that Islamic law was customary law. He emphasized that in no case should those two systems be placed on the same footing, even if Islamic law did incorporate certain rules of customary law.

74. With regard to the link between the Covenant and domestic law, it must be noted that the Covenant was being applied in a changing world. He hoped that the Committee would take a critical view of the developments brought to its attention. It was faced, in particular, with a great upsurge of Islamization in the world. That was a fact of current international politics which could not be disregarded. It was true that certain Islamic laws did not comply with the provisions of the Covenant. In that case, the Covenant should be adapted to the Islamization movement, which was recent, and the wording of the Covenant's provisions, which dated from a bygone era, should be amended. To say that the Covenant prohibited this or that was, in a sense, to put it on ice or to destroy it. It was also a sure means of ensuring the failure of the very objectives of human rights. The Covenant's provisions should reflect the evolution of the world.

75. Nevertheless, those provisions could be invoked in any Sudanese court. He recognized, however, that the Sudan lacked a national council for human rights which would make it possible to give greater publicity to human rights. A proposal for the establishment of such a body had been submitted to the Government, which had accepted it in principle, and the Sudanese authorities would request assistance from the Centre for Human Rights in that respect.

76. He regretted that some of the information that had been provided orally during the debate with the Committee did not appear in the initial report (CCPR/C/45/Add.3).

77. As far as the application of Islamic law was concerned, that had been an objective of the Sudanese authorities since 1958, and was not a new idea of the present Government. For 60 years, each successive Government of the Sudan had attempted, with varying degrees of success, to ensure the implementation of the Shariah, whose authority they had all invoked. That clearly demonstrated that the Sudanese system had been chosen by the people. In discussing that question, it was also important not to lose sight of the social and economic conditions that prevailed in each country. What was true of one country was not necessarily so of another.

78. To conclude, he said that the debate had been valuable, and he hoped that the Committee would find its observations and suggestions duly reflected in the Sudan's second periodic report.

79. The CHAIRMAN said that the Committee had concluded its consideration of the initial report of the Sudan (CCPR/C/45/Add.3).

80. Mr. Abdel Samie Omer (Sudan) withdrew.

The meeting rose at 1.15 p.m.